IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

RCRev..No. 230 of 2007

RCA.154/2006 of RENT CONTROL APPELLATE AUTHORITY, VADAKARA
RCP.55/2005 of RENT CONTROL COURT, VADAKARA
.....

PETITIONERS/APPELLANTS IN R.C.A 154/2006:

1. KUNIYIL THAMASIKKUM CHEMBA PUTHUKKUDI-
   MEENAKSHI, W/O.KANNAN, MAYYANNUR (P.O),
   MAYYANNUR DESOM, VATAKARA TALUK, KOZHIKODE
   DISTRICT.

2. -DO- SUMA, D/O.KANNAN, RESIDING AT -DO- -DO-

3. PURATHO PARAMBATH SUDHA, D/O.KANNAN,
   RAYARANGATH (P.O), RAYARANGATH AMSOM AND DESOM,
   VATAKARA TALUK, KOZHIKODE DISTRICT.

4. PEEDIKAKKANDI SUNITHA, D/O.KANNAN,
   PAZHANKAVU, VATAKARA AMSOM DESOM,
   VATAKARA TALUK, KOZHIKODE DISTRICT.

5. KUNIYIL THAMASIKKUM CHEMBAPUTHUKUDI-
   MANOJAN, S/O.KANNAN, MAYYANNUR (P.O),
   MAYYANNUR DESOM, VATAKARA TALUK, DO.

6. -DO- MINIYA, D/O.KANNAN, RESIDING AT -DO- -DO-

7. C.P.NARAYANAN, S/O.KANARAN, MEETHALE
   PALLIMADATHIL, VATAKARA AMSOM DESOM,
   VATAKARA TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR

RESPONDENT/RESPONDENT/PETITIONER:

E.BHASKARAN, S/O.SANKARAN,
NITTAROTT MEETHAL HOUSE,
VATAKARA AMSOM DESOM,
VATAKARA TALUK, KOZHIKODE DISTRICT.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

R.C.R.No. 230 of 2007

ORDER

Balachandran, J.

This revision is filed by the tenants, assailing the legality, propriety and correctness of the order of eviction passed against them concurrently by the authorities below. The respondent/landlord filed R.C.P.No.55/05 before the Rent Control Court, Vatakara seeking for an order of eviction under Sections 11(3) and 11(4)(i) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act'). The petition was allowed by the Rent Controller under Section 11(3) of the Act, but the claim for eviction under Section 11(4)(i) of the Act was dismissed. The petitioners/tenants filed R.C.A.No. 154/06 before the Rent Control Appellate Authority, Vatakara, assailing the order of eviction passed under Section 11(3) of the Act and the respondent/

landlord filed cross appeal, assailing rejection of the claim under Section 11(4)(i) of the Act. Both the Rent Control Appeal and the Cross Appeal were dismissed by the appellate authority, concurring with the findings of the Rent Control Court.

2. It is vehemently contended by the learned counsel for the petitioners that the need advanced should have been found by the authorities below as being not bona fide and he attempted to take us through the entire evidence adduced in the case in support of the contention so advanced. We are unable to interfere in revision in the concurrent orders of eviction passed by the authorities below under Section 11(3) of the Act, as we do not find that the orders of the authorities below are incorrect, illegal or improper. This revision in the circumstances is devoid of merit and deserves only to be dismissed.

3. Finally, it is urged by the counsel on behalf of the petitioners that reasonable time be granted to the petitioners to surrender vacant

possession of the scheduled building to the respondent/landlord. The request so made deserves to be considered favourably.

In the result, we dismiss this Rent Control Revision. But, at the same time, we grant the petitioners time till 31.12.2007 to surrender vacant possession of the scheduled building to the respondent/landlord on the following conditions:

i. that they shall deposit the entire arrears of rent, if any, in the execution court with a detailed statement as to its correctness within three weeks from today.

ii. that they shall file affidavits before the execution court within one month from today, reporting that all arrears of rent are cleared and unconditionally undertaking that they will surrender vacant possession of the scheduled building to the respondent/landlord positively on or before 31.12.2007 and that they will continue to pay the future monthly rents on the due dates itself till they actually surrender vacant

possession of the scheduled building to the respondent/landlord and

iii. that in case the petitioners fail to comply with the above conditions, they shall not be entitled to the benefit of continuing in occupation of the scheduled building till 31.12.2007 and shall be liable to be evicted immediately on the expiry of the aforesaid one month in execution of the order of eviction passed against them.

Registry shall communicate a copy of this order to the respondent/landlord at the expense of the petitioners, as we are disposing of this revision at the admission stage itself, without issuing notice to the respondent/landlord.

(J.B.Koshy, Judge)

19th July, 2007

(K.P.Balachandran, Judge)

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